

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NEW YORKERS AGAINST CONGESTION :  
PRICING TAX, *et al.*, :  
: Plaintiffs, :  
: : No. 1:24-cv-00367-LJL  
v. :  
: :  
UNITED STATES DEPARTMENT OF :  
TRANSPORTATION, *et al.*, :  
: Defendants. :  
----- x  
MICHAEL MULGREW, *et al.*, :  
: Plaintiffs, :  
: :  
v. : No. 1:24-cv-01644-LJL  
: :  
UNITED STATES DEPARTMENT OF :  
TRANSPORTATION, *et al.*, :  
: Defendants. :  
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**NOTICE OF MOTION**

**PLEASE TAKE NOTICE** that upon the Memorandum of Law of Defendant New York State Department of Law in Support of Its Motion to Dismiss, the Declaration of Andrew G. Frank with exhibit, and upon all the pleadings and proceedings previously had in the two above-captioned actions, the undersigned will move this Court pursuant to Federal Rules of Civil Procedure 12(b)(1), at the Daniel Patrick Moynihan United States Courthouse, Courtroom 15C, 500 Pearl Street, New York, New York 10007, at such date and time as the Court may set, for an order dismissing defendant New York State Department of Transportation from the

two above-captioned actions on the ground that the Department is immune from suit under the Eleventh Amendment to the United States Constitution.

**PLEASE TAKE FURTHER NOTICE** that pursuant to orders of the Court identified below, and subject to further orders of the Court, further submissions on this motion are due on the following schedules: (1) plaintiffs in *New Yorkers Against Congestion Pricing Tax v. U.S. Department of Transportation* shall serve their papers in opposition by April 1, 2024, and the Department shall serve its reply papers in that action by April 15, 2024, Court-Endorsed Letter Order (Feb. 20, 2024) [*New Yorkers Against* ECF No. 45]; and (2) plaintiffs in *Mulgrew v. U.S. Department of Transportation* shall serve their papers in opposition by April 15, 2024, and the Department shall serve its reply papers in that action by April 22, 2024, Court-Endorsed Letter Order (Mar. 7, 2024) [*Mulgrew* ECF No. 44],

Dated: New York, New York  
March 18, 2024

Respectfully submitted,

LETITIA JAMES,  
ATTORNEY GENERAL OF THE STATE  
OF NEW YORK

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